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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,170	01/19/2001	Troy J. Chapman	353532000610	1930

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EXAMINER

DAVIS, DANIEL J

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 10/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

09/766,170

CHAPMAN, TROY J. LC

Examiner

Art Unit

Daniel J Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-14, 16, 17 and 20 is/are rejected.
- 7) ☒ Claim(s) 11, 15, 18, 19 and 21-23 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on January 19, 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to label "groove 42" in Fig. 2A (Page 11, line 25) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 12-14, 16, 17, and 20 are rejected under 35 U.S.C. 102(b) as anticipated by Taylor et al. (US 5,925,054). Regarding claims 1 and 2, Taylor discloses a perfusion device (Figs. 20, 22) "for use in coupling an end of a graft vessel to a side of a target vessel". The tubular member (Figs. 20, 22) has a compressible portion 350,350' that is self expanding (Col. 21, lines 52-61).

Regarding claims 3-5, the tubular member (Figs. 20, 22) comprises a flexible tube 354 that is biocompatible (it is placed in a vessel and must be biocompatible) and is made of plastic (Col. 3, lines 1-14).

Regarding claims 6-10, the tubular member comprises a coil between an inner and outer layer (Col. 3, lines 59-64). The coil is made of stainless steel (Col. 4, lines 11-14), which is biocompatible. The inner and outer layers are made from a low durometer plastic material. Since the inner and outer layers are made of a plastic that must be flexible (Col. 4, lines 1-7), the plastic must have a low durometer.

Regarding claims 12-14, the compressible portion 350 is biocompatible (it is placed in a vessel), non-metallic (Col. 22, lines 10-14), and foam (Col. 21, lines 4-6).

Regarding claim 16, Taylor discloses that the compressible portion/expandable members 350 expand "to seal off the flow of blood to prevent leakage through the arteriotomy 355" (Col. 21, lines 59-62). In order to meet this objective, the compressible portion/expandable members 350 could not merely abut the vessels walls, but must push the walls outward. Pushing the vessel walls outward "between about 10-80 percent" is a reasonable amount to prevent blood flow. Therefore, the compressible portion/expandable members 350 would have to be "between about 10 to 80 percent larger than the inside diameter of the target vessel" in order to push the walls out by that amount.

Regarding claim 17, the inside diameter of the tubular member (Figs. 20, 22) must be large enough to allow sufficient blood flow to keep downstream tissue alive, yet

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the tubular member must fit within a vessel. Therefore, the inside diameter of the tubular member must be between about .5 mm to 6.0 mm.

Regarding claim 20, introducer 356 has an outer diameter and is "sized to permit insertion of the introducer through the opening in the side wall of the target vessel".

Allowable Subject Matter

Claims 11, 15, 18, 19, 21, 22, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Cox (US 6,283,991) discloses an introducer and expandable foam prosthesis.

Gifford, III et al. (US 5,695,504), Lentz et al. (US 5,843,166), Whalen (US 4,130,904), Gia et al. (US 6,123,714), disclose embedded coils.

Berggren et al. (US 5,323,789), Butters et al. (US 6,019,788), Kaster (US 4,386,736), Kaster (US 4,366,819), Nash (US 6,030,395) disclose anastomosis devices for vessels.

Sinnott (US 5,246,452) discloses a vascular graft.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J Davis whose telephone number is (703) 305-1232. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on (703) 308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7721 for regular communications and (703) 746-7721 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

DJD
March 14, 2002



Michael J. Milano
Supervisory Primary Examiner
AU 3731